

Chapter 18

Conservation Commission Act

4-18-101 Title.

This chapter is known as the "Conservation Commission Act."

Renumbered and Amended by Chapter 227, 2013 General Session

4-18-102 Purpose declaration.

- (1) The Legislature finds and declares that:
 - (a) the soil and water resources of this state constitute one of its basic assets; and
 - (b) the preservation of these resources requires planning and programs to ensure:
 - (i) the development and utilization of these resources; and
 - (ii) their protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.
- (2) The Legislature finds that local production of food is essential for:
 - (a) the security of the state's food supply; and
 - (b) the self-sufficiency of the state's citizens.
- (3) The Legislature finds that sustainable agriculture is critical to:
 - (a) the success of rural communities;
 - (b) the historical culture of the state;
 - (c) maintaining healthy farmland;
 - (d) maintaining high water quality;
 - (e) maintaining abundant wildlife;
 - (f) high-quality recreation for citizens of the state; and
 - (g) helping to stabilize the state economy.
- (4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.
- (5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of land, soil, water, and air.
- (6) To encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources, the state shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107.

Amended by Chapter 383, 2014 General Session

4-18-103 Definitions.

As used in this chapter:

- (1)
 - (a) "Agricultural discharge" means the release of agriculture water from the property of a farm, ranch, or feedlot that:
 - (i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, or other water conveyance system;
 - (ii) pollutes ground water; or
 - (iii) constitutes a significant nuisance to urban land.
 - (b) "Agricultural discharge" does not include:

- (i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated field onto land that is not part of a body of water; or
 - (ii) a release of water from a farm, ranch, or feedlot into a normally dry water conveyance leading to an active body of water, if the release does not reach the water of a lake, pond, stream, marshland, river, or other active body of water.
- (2) "Agricultural operation" means a farm, ranch, or animal feeding operation.
- (3) "Agriculture water" means:
 - (a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;
 - (b) the return flow of water from irrigated agriculture; or
 - (c) agricultural storm water runoff.
- (4) "Alternate" means a substitute for a district supervisor if the district supervisor cannot attend a meeting.
- (5)
 - (a) "Animal feeding operation" means a facility where animals, other than aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.
 - (b) "Animal feeding operation" does not include an operation where animals are in areas such as pastures or rangeland that sustain crops or forage growth during the normal growing season.
- (6) "Best management practices" means practices, including management policies and the use of technology, used by each sector of agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:
 - (a) protect the environment;
 - (b) protect human health;
 - (c) ensure the humane treatment of animals; and
 - (d) promote the financial viability of agricultural production.
- (7) "Certified agricultural operation" means an agricultural operation that is certified under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with Section 4-18-107.
- (8) "Certified conservation planner" means a planner of a state conservation district, or other qualified planner, that is approved by the commission to certify an agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107.
- (9) "Commission" means the Conservation Commission created in Section 4-18-104.
- (10) "Comprehensive nutrient management plan" or "nutrient management plan" means a plan to properly store, handle, and spread manure and other agricultural byproducts to:
 - (a) protect the environment; and
 - (b) provide nutrients for the production of crops.
- (11) "Coordinated resource management plan" means a plan of action created at a local level with broad participation of land owners, natural resource agencies, and interested stakeholders to protect or enhance the environment, human health, humane treatment of animals, and financial viability in the community.
- (12) "District" or "conservation district" has the same meaning as "conservation district" as defined in Section 17D-3-102.
- (13) "Pollution" means a harmful human-made or human-induced alteration to the water of the state, including an alteration to the chemical, physical, biological, or radiological integrity of water that harms the water of the state.

- (14) "State technical standards" means a collection of best management practices that will protect the environment in a reasonable and economical manner for each sector of agriculture as required by this chapter.
- (15) "Sustainable agriculture" means agriculture production and practices that promote:
 - (a) the environmental responsibility of owners and operators of farms, ranches, and feedlots; and
 - (b) the profitability of owners and operators of farms, ranches, and feedlots.

Amended by Chapter 383, 2014 General Session

4-18-104 Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.

- (1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.
- (2) The Conservation Commission shall be comprised of 16 members, including:
 - (a) the director of the Extension Service at Utah State University or the director's designee;
 - (b) the president of the Utah Association of Conservation Districts or the president's designee;
 - (c) the commissioner or the commissioner's designee;
 - (d) the executive director of the Department of Natural Resources or the executive director's designee;
 - (e) the executive director of the Department of Environmental Quality or the executive director's designee;
 - (f) the chair and the vice chair of the State Grazing Advisory Board, created in Section 4-20-1.5;
 - (g) the president of the County Weed Supervisors Association;
 - (h) seven district supervisors who provide district representation on the commission on a multicounty basis; and
 - (i) the director of the School and Institutional Trust Lands Administration or the director's designee.
- (3) If a district supervisor is unable to attend a meeting, an alternate may serve in the place of the district supervisor for that meeting.
- (4) The members of the commission specified in Subsection (2)(h) shall:
 - (a) be recommended by the commission to the governor; and
 - (b) be appointed by the governor with the consent of the Senate.
- (5)
 - (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (7) The commissioner is chair of the commission.
- (8) Attendance of a majority of the commission members at a meeting constitutes a quorum.
- (9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

- (10) The commission shall keep a record of its actions.
- (11) The attorney general shall provide legal services to the commission upon request.

Renumbered and Amended by Chapter 227, 2013 General Session

4-18-105 Conservation Commission -- Functions and duties.

- (1) The commission shall:
 - (a) facilitate the development and implementation of the strategies and programs necessary to:
 - (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state; and
 - (ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;
 - (b) disseminate information regarding districts' activities and programs;
 - (c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;
 - (d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually an audit of its funds to the commission;
 - (e) approve and make loans for agricultural purposes, through the advisory board described in Section 4-18-106, from the Agriculture Resource Development Fund, for:
 - (i) rangeland improvement and management projects;
 - (ii) watershed protection and flood prevention projects;
 - (iii) agricultural cropland soil and water conservation projects;
 - (iv) programs designed to promote energy efficient farming practices; and
 - (v) programs or improvements for agriculture product storage or protections of a crop or animal resource;
 - (f) administer federal or state funds, including loan funds under this chapter, in accordance with applicable federal or state guidelines and make loans or grants from those funds to land occupiers for:
 - (i) conservation of soil or water resources;
 - (ii) maintenance of rangeland improvement projects;
 - (iii) development and implementation of coordinated resource management plans, as defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and
 - (iv) control or eradication of noxious weeds and invasive plant species:
 - (A) in cooperation and coordination with local weed boards; and
 - (B) in accordance with Section 4-2-8.7;
 - (g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;
 - (h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;
 - (i) assist other state agencies with conservation standards for agriculture when requested; and
 - (j) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:
 - (i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;
 - (ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;
 - (iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

- (iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;
 - (v) meet the requirements of federal law related to water and air pollution in the exercise of its powers and duties; and
 - (vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.
- (2) The commission may:
- (a) employ, with the approval of the department, an administrator and necessary technical experts and employees;
 - (b) execute contracts or other instruments necessary to exercise its powers;
 - (c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;
 - (d) sue and be sued; and
 - (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).
- (3) If, under Subsection (2)(a), the commission employs an individual who was formerly an employee of a conservation district or the Utah Association of Conservation Districts, the Department of Human Resource Management shall:
- (a) recognize the employee's employment service credit from the conservation district or association in determining leave accrual in the employee's new position within the state; and
 - (b) set the initial wage rate for the employee at the level that the employee was receiving as an employee of the conservation district or association.
- (4) An employee described in Subsection (3) is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be designated under schedule codes and parameters established by the Department of Human Resource Management under Subsection 67-19-15(1)(p) until the commission, under parameters established by the Department of Human Resource Management, designates the employee under a different schedule recognized under Section 67-19-15.
- (5)
- (a) For purposes of the report required by Subsection (5)(b), the commissioner shall study the organizational structure of the employees described in Subsection (3).
 - (b) The commissioner shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than that subcommittee's November 2015 interim meeting regarding the study required by Subsection (5)(a).

Amended by Chapter 19, 2016 General Session

4-18-106 Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

- (1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.
- (2) The Agriculture Resource Development Fund shall consist of:
 - (a) money appropriated to it by the Legislature;
 - (b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;
 - (c) money received for the repayment of loans made from the fund;
 - (d) money made available to the state for agriculture resource development from any source; and
 - (e) interest earned on the fund.
- (3) The commission shall make loans from the Agriculture Resource Development Fund as provided by Subsections 4-18-105(1)(e)(i) through (iv).

- (4) The commission may appoint an advisory board that shall:
 - (a) oversee the award process for loans, as described in this section;
 - (b) make recommendations to the commission regarding loans; and
 - (c) recommend the policies and procedures for the Agriculture Resource Development Fund, consistent with statute.

Amended by Chapter 19, 2016 General Session

4-18-107 Utah Agriculture Certificate of Environmental Stewardship Program.

- (1) There is created the Utah Agriculture Certificate of Environmental Stewardship Program.
- (2) The commission, with the assistance of the department and with the advice of the Water Quality Board, created in Section 19-1-106, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:
 - (a)
 - (i) best management practices;
 - (ii) state technical standards; and
 - (iii) guidelines for nutrient management plans;
 - (b) requirements for qualification under the Utah Agriculture Certificate of Environmental Stewardship Program that:
 - (i) are consistent with sustainable agriculture;
 - (ii) help prevent harm to the environment, including prevention of an agricultural discharge; and
 - (iii) encourage agricultural operations in the state to follow:
 - (A) best management practices; and
 - (B) nutrient management plans that meet the state technical standards appropriate for each type of agricultural operation;
 - (c) the procedure for qualification under the Utah Agriculture Certificate of Environmental Stewardship Program;
 - (d) the requirements and certification process for an individual to become a certified conservation planner; and
 - (e) standards and procedures for administering the Utah Agriculture Certificate of Environmental Stewardship Program, including:
 - (i) renewal of a certification under Subsection (4)(b);
 - (ii) investigation and revocation of a certification under Subsection (6); and
 - (iii) revocation of a certification under Subsection (7)(b).
- (3) An owner or operator of an agricultural operation may apply to certify the agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with this section.
- (4)
 - (a) Except as provided in Subsection (6) or (7), a certified agricultural operation remains certified for a period of five years after the day on which the agricultural operation becomes certified.
 - (b) A certified agricultural operation may, in accordance with commission rule, renew the certification for an additional five years to keep the certification for a total period of 10 years after the day on which the agricultural operation becomes certified.
- (5) Subject to review by the commissioner or the commissioner's designee, a certified conservation planner shall certify each qualifying agricultural operation that applies to the Utah Agriculture Certificate of Environmental Stewardship Program.
- (6)

- (a) Upon request of the Department of Environmental Quality or upon receipt by the department of a citizen environmental complaint, the department shall, with the assistance of certified conservation planners as necessary, investigate a certified agricultural operation to determine whether the agricultural operation has committed a significant violation of the requirements of the Utah Agriculture Certificate of Environmental Stewardship Program.
- (b) If, after completing an investigation described in Subsection (6)(a), the department determines that a certified agricultural operation has committed a significant violation of the requirements for the Utah Agriculture Certificate of Environmental Stewardship Program, the department shall report the violation to the commission.
- (c) Upon receipt of a report described in Subsection (6)(b), the commission shall review the report and:
 - (i) revoke the agricultural operation's certification; or
 - (ii) set terms and conditions for the agricultural operation to maintain its certification.
- (7)
 - (a) If, for a certification renewal under Subsection (4)(b), or an investigation under Subsection (6)(a), the department requests access to a certified agricultural operation, the certified agricultural operation shall, at a reasonable time, allow access for the department to:
 - (i) inspect the agricultural operation; or
 - (ii) review the records of the agricultural operation.
 - (b) If a certified agricultural operation denies the department access as described in Subsection (7)(a), the commission may revoke the agricultural operation's certification.
- (8) If the commission changes a requirement of the Utah Agriculture Certificate of Environmental Stewardship Program after an agricultural operation is certified in accordance with former requirements, during the certification and renewal periods described in Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new requirement, but the agricultural operation is not subject to the new requirement until the agricultural operation reapplies for certification.
- (9) Nothing in this section exempts an agricultural discharge made by a certified agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).
- (10)
 - (a) Except as provided in Subsections 19-5-105.6(2) and (3), a certified agriculture operation may not be required to implement additional projects or best management practices to address nonpoint source discharges.
 - (b) The Division of Water Quality shall consider an agriculture operation's compliance with certification under an approved agriculture environmental stewardship program a mitigating factor for penalty purposes, as provided in Section 19-5-105.6.

Amended by Chapter 383, 2014 General Session

4-18-108 Grants for environment improvement projects -- Criteria for award -- Duties of commission.

- (1)
 - (a) Subject to appropriation, the commission, as described in Subsection (4), may make a grant to an owner or operator of a farm or ranch to pay for costs of plans or projects to improve manure management, control surface water runoff or other environmental issues on the farm or ranch operation, including costs of preparing or implementing a nutrient management plan.
 - (b) The commission shall make a grant described in Subsection (1)(a) from funds appropriated by the Legislature for that purpose.

- (2)
 - (a) In awarding a grant, the commission shall consider the following criteria:
 - (i) the ability of the grantee to pay for costs of plans or projects to improve manure management or control surface water runoff;
 - (ii) the availability of:
 - (A) matching funds provided by the grantee or another source; or
 - (B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and
 - (iii) the benefits that accrue to the general public by the awarding of a grant.
 - (b) The commission may establish by rule additional criteria for the awarding of a grant.
- (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.
- (4) The commission:
 - (a) shall be responsible for awarding a grant or loan for water quality or other environmental issues; and
 - (b) may appoint an advisory board to:
 - (i) assist with the award process; and
 - (ii) make recommendations to the commission regarding awards.

Renumbered and Amended by Chapter 189, 2014 General Session

Renumbered and Amended by Chapter 383, 2014 General Session

4-18-109 Public lands wildfire study and analysis -- Report.

- (1) As used in this section:
 - (a) "Conservation districts" means the conservation districts created under Title 17D, Chapter 3, Conservation District Act.
 - (b) "Public lands" means the same as that term is defined in Section 63L-6-102.
- (2)
 - (a) The commission shall work with Utah State University and the conservation districts to conduct a study and analysis of the environmental and economic impact of:
 - (i) potential catastrophic wildfires on public lands within Utah, including the impact to the state and the state's counties, of catastrophic wildfire on the state's watershed and air quality; and
 - (ii) changing rangeland and forest management practices to reduce the probability and severity of wildfires in Utah.
 - (b) The study and economic analysis described in Subsection (2)(a) shall:
 - (i) document historical acreage and severity of wildfires in Utah;
 - (ii) assess and document differences in state and federal wildfire preparedness activities;
 - (iii) update and expand upon existing studies of wildfire fuel loads on public lands, including consideration of insect damage, invasive species, grazing management, and timber management;
 - (iv) assess the relative size, probability, and severity of wildfires on public lands in Utah, including consideration of factors that lead to wildfires, including biology and characteristics of land;
 - (v) identify the most cost-effective wildfire preparedness actions; and
 - (vi) develop a statistical model that would allow public land managers to more efficiently allocate funds between wildfire expenditures and other expenditures.

- (3) The commission, in consultation with Utah State University and the conservation districts, may contract with another state agency or private entity to assist with the study and analysis required by Subsection (2).
- (4) Before December 31, 2016, the commission shall work with Utah State University and the conservation districts to submit a final report on the study and analysis described in Subsection (2), including proposed legislation and recommendations, to the Legislature's Commission for the Stewardship of Public Lands.

Enacted by Chapter 166, 2016 General Session